

Courts)

Opinion & order on September 30, 2021

MEMO ENDORSED

United States District Court
Southern District of New York

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Tyron Felder,

Petitioner,

- against -

United States of America,

Respondent.

20-CV-7531 (VEC)

8214-CR-546 (VEC)

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Petitioner's Motion to Alter/Amend

The court's findings and decision

Entered August 10, 2021

Petitioner, Tyron Felder, Proceeding pro se

and in forma pauperis. Respectfully request the

court to reconsider its prior findings and

alter/amend its decision entered August 10, 2021

Pursuant to Rules 52 (b) and 59 (e) of the

Federal Rules of Civil Procedure. Petitioner submits the following in support thereof.

(1) On August 10, 2021 this court denied Petitioner's Motion to vacate, set aside, or correct his sentence. (28 U.S.C. § 2255). Also declined to issue a "Certificate of Appealability"

(2) In denying his § 2255 Petition, the court overlooked material facts that Petitioner presented in his brief concerning Grounds 1-4. Matters that might reasonably be expected to alter the conclusion by this court.

(3) In declining to issue a COA, the court did not consider the facts Petitioner

Presented in Grounds 1 and 2.3.4.

(A) The Jury would've reached, could've reached a different verdict had they been privy to the evidence defense had in its possession during trial.

(B) Petitioner was denied his constitutional right to effective assistance of counsel. Petitioner has evidence that this court should consider as a matter of law. An evidentiary hearing should be granted at the very least to show this court why it should grant his motion.

(C) As long as one jurist of reason (as Barefoot v. Estelle, put it) might find the

ultimate Constitutional and Procedural grounds of the court's decision to be debatable, the COA must be allowed.

Buck v. Davis, 137 S. Ct. 759 (2017), Almato v. United States, 2017 U.S. Dist. Lexis 218635 (E.D.N.Y. June 6, 2017).

As a result, the court should reconsider its prior decision and amend its findings to correct its oversights identified in this motion.

A contemporaneous Brief in support of this motion is being filed.

Wherefore, for all the foregoing reasons, this court should grant this motion

and grant a full evidentiary hearing
on Petitioner's 82255 Petition to advance
the merits of his Ineffective
assistance of counsels claims.

Respectfully Submitted

Date: _____

Tyron Felder
71371-054, Unit 3A
USP Allenwood
P.O. Box 3000
White Deer, PA 17887
Petitioner, pro se

Certificate of Service

I hereby certify that a true and correct copy of "Petitioner's motion to Alter/Amend the Court's finding and the judgement entered August 10, 2021" was given to Prison officials for filing pursuant to Noble v. Kelly, 246 F.3d 93, 97 (2d Cir 2001) and to ensure delivery to Respondent's Counsel at the below address:

WITNESS
G. Mudry, Case Manager
Authorized by the Act of July 7,
1955, as amended to administer
oaths (18 USC 4004).

El. Mark / Gina Castellano

Assistant United States Attorneys

Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Date: 10/25/21

Signature: Petitioner, Pro Se
Fielder, T.

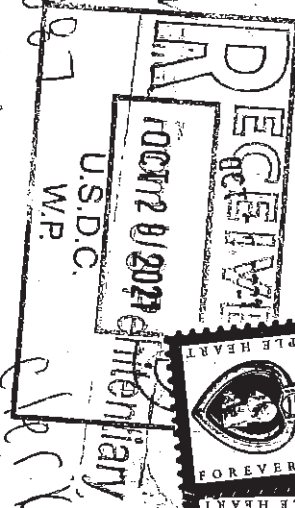
Tyron Felder 71371-054
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US Penitentiary
PO Box 3000
White Deer, PA 17897

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Southern District of New York
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Petitioner must submit his brief in support of his motion not later than November 19, 2021. The Government's response is due not later than December 10, 2021. Petitioner's reply is due not later than January 31, 2022. The Clerk of Court is respectfully directed to mail a copy of this order to Mr. Felder.

SO ORDERED.

 11/2/21

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE